

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

H.P. 75 - L.D. 89

An Act Regarding Repeated Animal Trespass

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State's current animal trespass law is not adequate to address repeated instances of animal trespass; and

Whereas, it is necessary to address the animal trespass law as soon as possible to prevent damage to property and public health; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §4041, as amended by PL 2009, c. 548, §§4 and 5, is further amended to read:

§4041. Animal trespass

1-A. Trespass. An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that that animal was found on that property or on that local, county or state road or highway.

2. Removal. The owner or keeper of an animal is responsible, at the owner's or keeper's expense, for removing any animal found trespassing. An animal control officer, authorized employee of the department or law enforcement officer may, at the owner's or keeper's expense, remove and control an animal found trespassing if:

A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

B. The animal is an immediate danger to itself, persons or another's property.

3. Civil violation. A person commits a civil violation if an animal owned or kept by that person is found trespassing and:

A. That person fails to remove the animal within 12 hours, or immediately if public safety or private or public property is threatened, after having been personally notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

C. That person owns an animal or animals that have been found trespassing on 5 or more days within a 30-day period or 3 or more days within a 7-day period.

4. Fine. A fine of not less than \$50 nor more than \$500 must be adjudged for a civil violation under subsection 3. In addition, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the owner against the offender based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the court shall order restitution of all costs incurred by the department in responding to a violation of this section or assisting an animal control officer or law enforcement officer responding to a violation of this section.

5. Exemption. A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the animal to be on the property.

6. Definitions. ~~For purposes of~~ As used in this section, ~~the term "animal" does not include cats~~ unless the context otherwise indicates, the following terms have the following meanings.

A. "Animal" does not include cats.

B. "Authorized employee of the department" means a humane agent or any other employee of the department designated by the commissioner to assist with compliance and enforcement of this section.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor